



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2021-0406; FRL-10991-01-R4]

#### Air Plan Approval; North Carolina;

#### Bulk Gasoline Plant and Terminal Vapor Recovery Systems

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality (DAQ), via a letter dated April 13, 2021. This SIP revision includes changes to NCDEQ's regulations regarding bulk gasoline terminals and plants, gasoline cargo tanks and vapor collection systems, and leak tightness and vapor leak requirements. The EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2021-0406 at [www.regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file

sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit [www2.epa.gov/dockets/commenting-epa-dockets](http://www2.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mrs. Sheckler can be reached via electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov) or via telephone at (404) 562-9222.

## **SUPPLEMENTARY INFORMATION:**

### **I. What Action is EPA Proposing?**

The EPA is proposing to approve changes to North Carolina's SIP that were provided to EPA by NCDEQ via a letter dated April 13, 2021.<sup>1</sup> Specifically, the EPA is proposing approval of changes to 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Rules .0926, *Bulk Gasoline Plants*; .0927, *Bulk Gasoline Terminals*; .0932, *Gasoline Cargo Tanks and Vapor Collection Systems*; and .2615, *Determination of Leak Tightness and Vapor Leaks*.<sup>2</sup> The changes to these rules, as well as EPA's analysis of the changes, are discussed in the following section.<sup>3</sup>

### **II. EPA's Analysis of North Carolina's April 13, 2021, Submittal**

Follows is EPA's analysis of the changes in the April 13, 2021, SIP revision that are the subject of this proposed rulemaking.

#### **A. Rule 15A NCAC 02D .0926, Bulk Gasoline Plants**

North Carolina's April 13, 2021, SIP revision includes changes to Rule 02D .0926, *Bulk Gasoline Plants*, by adding one definition, removing obsolete language, clarifying some

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<sup>1</sup> EPA notes that the April 13, 2021, submittal was received by EPA on April 14, 2021.

<sup>2</sup> EPA also notes that the Agency received several revisions to the North Carolina SIP transmitted with the same April 13, 2021, cover letter. EPA is not proposing to act on revisions to the North Carolina SIP in this notice that are not explicitly identified herein. EPA may act on these other SIP revisions in separate rulemakings.

<sup>3</sup> On July 6, 2022, NCDEQ submitted a letter to EPA withdrawing the references to 02D .0960 from Rules 02D .0926 and 02D .0927. For this reason, EPA will not act on those changes in Rules 02D .0926 and 02D .0927.

requirements, and making general grammar and formatting updates.<sup>4</sup> The EPA provides further detail below concerning the proposed changes to Rule 02D .0926.

First, North Carolina's SIP revision adds a definition at 02D .0926(a)(5) for "Cargo tank." All other definitions in this rule were renumbered accordingly to reflect this change. This is a new definition that refers to storage vessels on freight trucks or trailers that are used to transport gasoline from sources of supply to stationary storage tanks of bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities, and gasoline service stations. The term "cargo tank" replaces the terms "tank truck," "trailer," "trucks," "tank truck or trailer," "tank trucks or trailers," and "trucks or trailers" throughout Rule 02D .0926. These terms were not previously defined in Rule 02D .0926. The effect of this change is to clarify that the rule applies to cargo tanks rather than the motor vehicles the tanks are attached to. This is clarifying in nature because the rule has always pertained to the stationary source emissions released from the cargo tanks attached to trucks and trailers, rather than the mobile source emissions from motor vehicles.

North Carolina has also made several modifications outside the definitions section in Paragraph (a) that similarly do not result in any changes to the meaning of the regulation. North Carolina has removed the date "May 1, 1993" from Paragraph (c) in Rule 02D .0926. Paragraph (c) previously required that owners or operators of bulk gasoline plants not transfer gasoline to any storage tanks after May 1, 1993, unless both the unloading cargo tank and the receiving stationary storage tank were equipped with an incoming vapor balance system and the receiving stationary storage tank was equipped with a fill line. North Carolina also removed the date "November 1, 2002," in Paragraph (j) of the Rule, which set a deadline by which all tanks used at bulk gasoline plants must be painted. These dates, triggering their respective compliance

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<sup>4</sup> In Paragraph (n), North Carolina's Rule references Rule 02D .0960 which is not in the SIP. DAQ has withdrawn that reference in Paragraph (n) from the April 13, 2021, SIP revision.

requirements, have passed. Therefore, removal of these dates does not alter current regulatory requirements.

Another modification in the SIP revision that does not change the meaning of the regulation is in Paragraph (g). This paragraph requires that all gasoline bulk plants located in a nonattainment area for ozone comply with the control requirements outlined in Paragraphs (d) and (e), even if the average daily throughput falls below the applicable threshold. The proposed changes to the SIP-approved rule simply streamline the language to make it more succinct. An additional clarifying edit North Carolina made was to add the word “volatile” in front of “organic material” each time that phrase is used in Paragraph (i). Rule 02D .0926 has always regulated volatile organic compounds (VOCs), so this modification does not change the meaning of these provisions and simply provides a more accurate description of the regulated pollutants. Also, in Paragraph (n), North Carolina revised the sentence to provide clarity by including cross-references to the applicable SIP-approved rules rather than summarizing the nature of those rules. Specifically, the changes include adding complete citations for 15A NCAC 02D .0932 and .2615, which provide the regulatory requirements to certify a cargo tank as leak tight (.0932) and in compliance with testing requirements (.2615).

Next, North Carolina broadens the definition of “Bulk Gasoline Terminal” by referring to gasoline storage facilities that have an average daily throughput of “greater than or equal” to 20,000 gallons, rather than only “more” than 20,000 gallons.

The remaining changes to Rule 02D .0926 are primarily minor language edits, reformatting edits, and grammatical corrections. For example, one language modification concerns word preference and changes the word “usually” to “typically.” Another change capitalizes the words “vapor” and “pressure” in “Reid Vapor Pressure” and adds the abbreviation “(RVP)”.

For the reasons discussed above, these proposed changes to the SIP would not interfere with any applicable requirement concerning attainment of the national ambient air quality

standards (NAAQS) and reasonable further progress, or any other applicable requirement of the Act.<sup>5</sup> Therefore, the EPA is proposing to approve the aforementioned changes to 02D .0926 into the North Carolina SIP.

**B. Rule 15A NCAC 02D .0927, Bulk Gasoline Terminals**

North Carolina's April 13, 2021, SIP revision includes changes to Rule 02D .0927, *Bulk Gasoline Terminals*, by adding two definitions, removing one, clarifying some requirements, and making general grammar and formatting updates.<sup>6</sup> The EPA provides further detail below concerning the proposed changes to Rule 02D .0927.

North Carolina has added two definitions and removed one in Rule 02D .0927. First, in Paragraph (a), North Carolina has added a definition for the term "Pipeline breakout station" and consequently removed the term "Breakout tank" and its definition, which referred to singular storage tanks rather than the facilities containing storage tanks along pipelines. This change clarifies which specific breakout tanks are regulated by Rule 02D .0927 (i.e., those located along bulk gasoline terminal pipelines).<sup>7</sup> The addition of "Pipeline breakout station" and removal of "Breakout tank" has no effect on emissions as the change only provides more specificity as to where the tanks that were already regulated by the Rule are located. Lastly, like Rule 02D .0926, North Carolina has added a definition for "Cargo tank". The term cargo tank replaces the same terms in Rule 02D .0927 that are replaced in Rule 02D .0926. The addition of "cargo tank" is clarifying in nature for the same reasons outlined in Section II.A, above. The terms in Paragraph 02D .0927(a) have consequently been renumbered to account for these changes.

North Carolina made several clarifying edits to Rule 02D .0927 outside the definitions section in Paragraph (a) which similarly do not change the meaning of the regulation. In

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<sup>5</sup> CAA Section 110(l) prohibits EPA from approving a SIP revision if the revision "would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter."

<sup>6</sup> Similar to the changes in Rule 02D .0926(n), Rule 02D .0927(k) also references Rule 02D .0960 which is not in the SIP. DAQ has withdrawn that reference in Paragraph (k) from the April 13, 2021, SIP revision.

<sup>7</sup> In Paragraph (a)(1), North Carolina has modified the definition of "Bulk gasoline terminal" by replacing the term "breakout tanks" with "a pipeline breakout station" for consistency with the modifications to the definition section.

Paragraph (c), North Carolina has clarified that the owner or operator of a bulk gasoline terminal must obtain and maintain records of a pre-installation certification from the manufacturer stating the vapor control efficiency of the system in use. In Paragraphs € and (f), North Carolina removed the initial compliance date of December 1, 2002. These paragraphs require the owner or operator of bulk gasoline terminals to paint all gasoline storage tanks white or silver and install an external floating roof tank as a self-supporting roof, such as a geodesic dome. The December 1, 2002, compliance date has passed; therefore, removal of this date does not alter current regulatory requirements.

Another clarifying edit specifies in Paragraph (a)(5) that “gasoline” refers to a petroleum distillate with an RVP of “4.0 psi or greater” instead of “four psia or greater.” The term “psia” is changed to “psi” which correctly specifies the RVP of gasoline and is consistent with the standard abbreviation in the CAA (*See, e.g.*, CAA section 211(h)).<sup>8</sup> Paragraph (p)(2) has also been reworded for clarity to ensure that records on inspections include findings detailing the location, nature, and severity of each leak. In Paragraph (k), North Carolina has added cross-references to other SIP-approved rules, specifically 15 NCAC 02D .0932 and .2615. This modification clarifies the meaning of what “certified leak tight” means for cargo tanks by referencing the regulatory requirements to certify a cargo tank is leak tight. North Carolina also changes a citation in the definition for “Leak” in Paragraph (a)(6). This citation for a reference method using a combustible gas detector to detect gas leaks was changed from 15A NCAC 02D .0940 to Appendix B of EPA-450/2-78-051. Since the new test method is identical to the previous reference, EPA finds this change acceptable.

The remaining changes to Rule 02D .0927 are primarily minor language edits, reformatting edits, and grammatical corrections. For example, one language edit throughout the

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<sup>8</sup> The term “psia” means pounds per square inch absolute, which refers to the pressure that a gauge would read plus the addition of atmospheric pressure, which is always present. RVP is measured in psi (i.e., without the addition of atmospheric pressure).

rule changes the formatting of rules from using the phrase “Section” to “15A NCAC 02D”.

Another edit concerns word preference and changes the word “usually” to “typically”.

For the reasons discussed above, these proposed changes to the SIP would not interfere with any applicable requirement concerning attainment of the NAAQS or any other applicable requirement of the Act. Therefore, the EPA is proposing to approve the aforementioned changes to 02D .0927 into the North Carolina SIP.

### **C. Rule 15A NCAC 02D .0932, Gasoline Cargo Tanks and Vapor Collection Systems**

North Carolina’s April 13, 2021, SIP revision includes changes to 15A NCAC 02D .0932, *Gasoline Cargo Tanks and Vapor Collection Systems*, which was revised to update definitions, revise the acceptable methods for certification, revise recordkeeping requirements, remove obsolete language, correct grammar, and update the format of references.

North Carolina has added two definitions and removed two definitions. First, as with Rules 02D .0926 and 02D .0927, North Carolina has added a definition for “Cargo tank” and replaced several terms throughout Rule 02D .0932 with the term “cargo tank.” This definition replaces the definition for “Truck tank,” which also referred to the same storage containers used to transport gasoline; however, the change more accurately describes the storage vessels that the rule applies to. The EPA preliminarily finds this change to be clarifying in nature for the same reasons outlined in Section II.A, above. North Carolina has also replaced the definition of “Truck tank vapor collection equipment” with a definition of “Cargo tank vapor collection equipment” to identify what exactly constitutes the vapor collection equipment. The new definition is identical to the old one except for specifying that the term now refers to the vapor collection equipment for cargo tanks rather than the equipment for truck tanks. As the new definition more accurately identifies what the Rule applies to, EPA finds these changes to be

clarifying in nature. Paragraph (a) has been renumbered and reformatted to account for these changes.

North Carolina has also modified the definition of “Certified Facility,” which it has renamed as “Cargo tank testing facility” for consistency with the newly added definitions. The new definition removes a cross-reference to Rule 02D .0960, which is not in the SIP and required certification via a sticker that gasoline cargo tanks had passed an EPA Appendix A Method 27 (Method 27) (*see* 40 CFR 63.425) leak tightness test. Instead, North Carolina is modifying Paragraph (a)(5) of this rule to cite to Subpart F of 49 CFR part 107. The modification would require cargo tank testing facilities to comply with the registration requirements outlined in Subpart F of 49 CFR part 107. As explained in further detail in Section II.D below, the EPA is proposing to approve a modification to Rule 02D .2615 that would require the use of either a Method 27 test or a 49 CFR 180.407 test for leak tightness.<sup>9</sup> The effect of these modifications is to eliminate the North Carolina specific stickers certifying compliance with Method 27, and instead require certification via a USDOT inspection sticker that signifies the gasoline cargo tank passed either the Method 27 or 49 CFR 180.407 leak test.<sup>10,11</sup> The Federal Motor Carrier Safety Administration (FMCSA) program oversees cargo tank testing facilities that conduct these tests as a part of the USDOT inspection. The USDOT inspection uses either the 49 CFR 180.407 leak test or Method 27 to test for leak tightness. Allowing owners and operators of gasoline cargo tanks to rely on the USDOT inspection sticker to signify passing the leak test would eliminate a

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<sup>9</sup> 49 CFR 180.407(h) requires the use of the leak test in 49 CFR 180.407(c) but allows cargo tanks “used to transport petroleum distillate fuels that are equipped with vapor collection equipment” to be leak tested in accordance with Method 27. *See* 180.407(h)(1) and (h)(3). However, the “hydrostatic test alternative, using liquid in [Method 27] may not be used to satisfy the leak testing requirements of this paragraph. The test must be conducted using air.” *See* 180.407(h)(3). EPA explains in Section II.D of this NPRM that the 49 CFR 180.407 test is at least as stringent as the Method 27 test.

<sup>10</sup> Rule 02D .0932(c)(2) requires each gasoline cargo tank that has been certified leak tight to display a sticker near the USDOT certification plate that complies with the test and inspection marking requirements outlined in 49 CFR 180.415.

<sup>11</sup> 49 CFR 180.415 requires each cargo tank that has successfully passed the inspection and testing requirements outlined in 49 CFR 180.407 to be marked near the specification plate or front head of the cargo tank with the date of the last applicable test or inspection and an identifier for the type of test or inspection. For ease of reference, EPA refers to this marking as the “USDOT inspection sticker” throughout this notice. For additional information, see the May 24, 2023, email from Randy P Strait, North Carolina Department of Environmental Quality, to Lynorae Benjamin, EPA Region 4.



duplicative requirement that owners and operators go through North Carolina specific inspections in addition to USDOT inspections. The EPA preliminarily finds this change approvable because the modification is consistent with changes to the other rules in this notice and will not impact air quality because the alternative test is at least as stringent as Method 27, as discussed in Section II.D of this notice of proposed rulemaking (NPRM). Therefore, the change will not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the Act.

North Carolina has also made a modification to the Rule that clarifies the meaning of Paragraph (c)(1). In Paragraph (c)(1), cross references to Rule 02D .0912 and Section 02D .2600 are removed and replaced with a cross reference to Rule 02D .2615. The modification requires a gasoline cargo tank to be certified to be leak tight pursuant to the test procedures outlined in Rule 02D .2615 and removes a reference to Rule 02D .0912. These changes are not substantive because Rule 02D .0912 requires owners or operators of VOC sources to demonstrate compliance by the methods described in Section 2600, and Rule 02D .2615 is the only rule in Section 2600 applicable to Rule 02D .0932.

North Carolina has also made changes to Paragraphs (c) and (d) that modify the meaning of those provisions. First, in Paragraphs (c)(5)(A) through (H), which contain recordkeeping requirements, North Carolina has updated the information required for recordkeeping. The changes to the recordkeeping requirements update the paragraph to account for the 49 CFR 180.407 test for leak tightness, include a requirement to provide information concerning any corrective repairs made to the cargo tank, and remove the reference to North Carolina specific inspection stickers certifying compliance with Method 27, consistent with the change discussed above eliminating the state sticker requirement. Additionally, the changes require more information in the leak test records, including but not limited to: 1) contact information of the cargo tank testing facility, 2) the name and signature of the individual performing the leak test as well as the owner of the tank, 3) the identification number of the tank, 4) documentation of the

test date and results, and 5) other information. The new recordkeeping requirements will comprehensively cover the required information to determine whether cargo tanks comply with either Method 27 or 49 CFR 180.407. North Carolina has also modified Paragraph (d)(4) to now require the Director to allow less frequent monitoring if no more than 10 leaks are found after two complete annual checks and require more frequent monitoring if more than 20 leaks are found. These requirements were previously discretionary, and the Director could decide whether to require less or more monitoring. The EPA is proposing to approve this change because it requires more frequent monitoring if more than 20 leaks are found and because the SIP currently allows the Director to require less frequent monitoring if no more than 10 leaks are found.

The remaining changes to Rule 02D .0927 are primarily minor language edits, reformatting edits, and grammatical corrections. For example, North Carolina removed the words “that is” from the phrase “that is flush” in describing how an opening in a storage tank is connected to the tank bottom. Another change replaces the terminology “breakout tanks” with “pipeline breakout stations” to reflect the change in terminology in 02D .0927. North Carolina has also reformatted how it refers to rules, changing “Rule .2615” to “15A NCAC 02D .2615,” for example.

For the reasons discussed above, these proposed changes to the SIP would not interfere with any applicable requirement concerning attainment of the NAAQS or any other applicable requirement of the Act. Therefore, EPA is proposing to approve the aforementioned changes to Rule 02D .0932 into the North Carolina SIP.

#### **D. Rule 15A NCAC 02D .2615, Determination of Leak Tightness and Vapor Leaks**

North Carolina’s April 13, 2021, SIP revision includes changes to 15A NCAC 02D .2615, *Determination of Leak Tightness and Vapor Leaks*. Specifically, these changes include

adding a new test procedure to determine the leak tightness of cargo tanks, updating a website reference, and updating the formatting of rule references.

As mentioned in Section II.C, the SIP revision includes changes to Rule 02D .2615 to allow gasoline cargo tanks to obtain a leak test certification using the USDOT 49 CFR 180.407 methodology as an alternative to Method 27. This change, and the change to Rule 02D .0932(a)(5) discussed above, center on eliminating the North Carolina specific inspection stickers certifying the exclusive use of Method 27. This change allows gasoline cargo tanks receiving leak test certification to be tested using either the Method 27 or the USDOT 49 CFR 180.407 methodology. Once a cargo tank has passed either leak test, the owner or operator of the cargo tank must display a USDOT inspection sticker signifying the gasoline cargo tank has passed. This SIP-approved rule and the proposed change, if approved by the EPA, do not impact the applicability of any federal standards that cover these sources independent of the SIP such as New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. These sources must also comply with those federal standards. As an example, 40 CFR part 60, Subpart XX, *Standards of Performance for Bulk Gasoline Terminals*, requires each gasoline tank truck subject to this federal rule to have vapor tightness documentation on file and updated at least once per year to reflect current test results as determined by Method 27. *See* 40 CFR 60.505(b). Thus, any gasoline tank truck subject to subpart XX must annually determine its vapor tightness using EPA Reference Method 27, and no other testing options are available for meeting the vapor tightness documentation requirement of subpart XX.

The purpose of the Method 27 and USDOT leak tests is to detect tank leaks of volatile vapors (i.e., fugitive VOCs) while under pressure during product loading. The USDOT tests are performed by certified inspectors registered with USDOT who are held to strict record keeping practices. *See* 49 CFR 180.409; 40 CFR 180.417. The registered inspectors perform both the USDOT leak test as well as the Method 27 test, which under 49 CFR 180.407, can be performed as an alternative for those cargo tanks equipped with vapor collection equipment dedicated to the

transportation of petroleum distillate fuels. *See* 49 CFR 180.407(h)(2). The primary change to North Carolina's cargo tank certification program is to allow reliance on the certification of test facilities by the FMCSA, rather than to require reliance on a duplicative state-specific program to ensure that cargo tanks do not leak. USDOT and the North Carolina rule both will continue to require gasoline cargo tanks to be tested annually and certified leak tight.

North Carolina's SIP revision includes a demonstration showing that the tests are comparable in identifying repairs necessary to correct leaks and that the change does not interfere with any applicable requirement concerning attainment of the NAAQS or any other applicable requirement of the Act. The two leak test methods are similar in that each method requires the cargo tank to be pressurized to check for leaks. The main difference is that the USDOT method requires pressure testing of each chamber of a cargo tank, whereas Method 27 requires pressure testing of the whole tank by opening the chambers.<sup>12</sup> Although chamber by chamber pressure testing takes longer, it identifies leak locations for repair better than Method 27. Cargo tanks typically contain three or more chambers for fuel. The EPA anticipates that many gasoline cargo tanks in North Carolina will continue to use Method 27 since it takes less time than the USDOT method.

The EPA has reviewed the demonstration provided by North Carolina in the April 13, 2021, submittal and agrees that that rule changes would not increase VOC emissions<sup>13</sup> or interfere with attainment and maintenance of any NAAQS. Regarding the NAAQS pollutant ozone, North Carolina is a nitrogen oxide (NO<sub>x</sub>) limited jurisdiction, which means ozone formation is limited to the amount of NO<sub>x</sub> available in the ambient air, not the amount of VOC. Therefore, EPA does not expect this to have an appreciable impact on ground level ozone

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<sup>12</sup> Method 27 also includes a vacuum test in addition to the pressure test. The USDOT rule only allows the use of Method 27 for cargo tanks equipped with vapor collection equipment transporting petroleum distillate fuels. *See* 49 CFR 180.407(h)(2) and footnote 10.

<sup>13</sup> VOCs are precursors to the NAAQS for ozone and particulate matter.

formation. Furthermore, the proposed rule changes would have no impact on the direct emissions of any NAAQS pollutant.

For the reasons discussed above and in North Carolina's noninterference demonstration, the changes to Rule 02D .2615 would not interfere with any applicable requirement concerning attainment of the NAAQS or any other applicable requirement of the Act. The revised program will reduce the burden of a duplicative leak inspection for cargo tank owners as they will only be required to test and obtain a single certification sticker.

### **III. Incorporation by Reference**

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference as discussed in paragraph II, A-D of this preamble. In accordance with the requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the following North Carolina rules in 15A NCAC Subchapter 02D: Rule 02D .0926, *Bulk Gasoline Plants* (state effective November 1, 2020); Rule 02D .0927, *Bulk Gasoline Terminals* (state effective November 1, 2020); Rule 02D .0932, *Gasoline Cargo Tanks and Vapor Collection Systems* (state effective October 1, 2020); and Rule 02D .2615, *Determination of Leak Tightness and Vapor Leaks* (state effective October 1, 2020). The EPA has made, and will continue to make, these materials generally available at the EPA Region 4 office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

### **IV. Proposed Action**

The EPA is proposing to approve North Carolina's April 13, 2021, SIP revision to incorporate changes to North Carolina's bulk gasoline plant, terminal, and vapor recovery system rules into the SIP. Specifically, EPA is proposing to approve the changes as described to 02D .0926, *Bulk Gasoline Plants*; 02D .0927, *Bulk Gasoline Terminals*; 02D .0932, *Gasoline Cargo Tanks and Vapor Recovery Collection Systems*; and 02D .2615, *Determination of Leak Tightness and Vapor Leaks*. EPA is proposing to approve these changes because they meet CAA

requirements and would not interfere with any applicable requirement concerning attainment or reasonable further progress.

## **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

NCDEQ did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the action being proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.





## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 6, 2023.

**Jeananne Gettle,**  
*Acting Regional Administrator,*  
*Region 4.*

[FR Doc. 2023-12601 Filed: 6/12/2023 8:45 am; Publication Date: 6/13/2023]